

## Communications Consumer Panel and ACOD response to Ofcom's call for inputs on helping consumers to engage in communications markets

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The Communications Consumer Panel (the Panel) and the Advisory Committee for Older and Disabled People (ACOD) welcome the opportunity to provide input into Ofcom's analysis of ways to help consumers engage in the communications markets.

The Panel works to protect and promote people's interests in the communications sector, including the postal sector. We are an independent statutory body set up under the Communications Act 2003. The Panel carries out research, provides advice and encourages Ofcom, governments, the EU, industry and others to look at issues through the eyes of consumers, citizens and micro businesses.

The Panel pays particular attention to the needs of older people and people with disabilities, the needs of people in rural areas and people on low incomes, and the needs of micro businesses, which have many of the same problems as individual consumers.

Four members of the Panel also represent the interests of consumers in England, Northern Ireland, Scotland and Wales respectively. They liaise with the key stakeholders in the Nations to understand the perspectives of consumers in all parts of the UK and input these perspectives to the Panel's consideration of issues. Following the alignment of ACOD with the Panel, the Panel is more alert than ever to the interests of older and disabled consumers and citizens.

### Response

Consumers face an array of barriers in engaging with, and navigating and participating in, communications markets - not least the complexity of pricing and tariffs where, as outlined in the call for inputs document, there are 3413 current triple play bundles. We welcome Ofcom's attention to resolving these difficulties. In particular, we welcome Ofcom's intention to end the unfair practices and unreasonable terms and conditions outlined in the call for inputs document.

While it is important to understand why some consumers face difficulties in engaging - and to identify, develop and implement relevant remedies to encourage and help them - we also believe it is important to respect the wishes of those who choose not to play a more active role in the market, but still deserve access to a good service for a fair price. Those who remain 'unengaged', for whatever reason, are not de facto "second class citizens" and should be protected from cross-subsidising the more engaged - especially where unengaged consumers are in vulnerable circumstances. Understanding these consumers - particularly some disabled and older consumers - is crucial and we would like to see greater emphasis and focus on this area. Perhaps the question should be: how do we help consumers to engage and to protect the interests of those who choose not to?



Ensuring that existing customers are better treated should be the starting point for improved engagement. We would urge Ofcom to look beyond just engagement per se. As we see it, there are two issues at stake: (a) how best to help customers who want to engage and would do so were it easier; and (b) how best to protect and promote the interests of those who make an informed choice not to do so.

### *Scope*

While we support the holistic approach Ofcom proposes to take - including landline, fixed broadband, pay TV, mobile phones and bundles of these services - we would suggest that landline-only customers and other consumers that are not the target of competition are given particularly careful consideration.

We agree that small and medium enterprises (SMEs) should be included within the scope of this project. And as we highlighted in response to Ofcom's recent review of its General Conditions of Entitlement<sup>1</sup> (GCs), care should be taken to ensure that micro businesses in particular are properly informed of prices/tariffs. Ofcom already publishes helpful information and infographics that may be useful in improving the engagement of smaller businesses<sup>2</sup> and we hope that including these businesses in the scope of this project will help Ofcom to test whether these are prominent enough and identify any improvements that need to be made.

Micro businesses, employing fewer than 10 people, are particularly susceptible to the types of harm that affect domestic consumers. As we found when conducting research into the needs of micro businesses<sup>3</sup>, digital communications services are essential to the survival of these businesses. An IT company owner said:

*"Communications are massive, it is as simple as that. You just basically can't survive day-to-day without it. Be it the internet with emails, telephones and so forth."*

Many micro businesses access communications services through domestic contracts. These businesses are less likely to have the resources to employ a communications and IT specialist, so are reliant on clear, easy to access, comparable information on the best deals available to them. There is a risk that these businesses are in effect hostages to whatever deal they find themselves on; better engagement will help.

For consumers and micro businesses alike, the quality of service and quality of customer service they receive can have a significant impact on their perception of the fairness of the overall communications service they are getting. We support Ofcom's continued and much-needed work in improving these.

We would strongly urge Ofcom to ensure that quality of service and quality of customer service are included in scope. They are equally potential barriers to engagement, alongside the transparency of pricing information and unfair contract terms and

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<sup>1</sup> <http://www.communicationsconsumerpanel.org.uk/downloads/ccp-acod-gcs-14-march-2017.pdf>

<sup>2</sup> <https://www.ofcom.org.uk/advice-for-businesses/what-communications-can-do-for-your-business>

<sup>3</sup> <http://www.communicationsconsumerpanel.org.uk/research-and-reports/realising-the-potential-micro-businesses--experiences-of-communications-services>

conditions. Transparent, fair and efficient complaint handling is part of good customer service and helps to build trust. Often, engagement with the market might take the form of making a complaint or reporting a problem. That experience may well determine whether a consumer chooses to engage again, and to what extent.

We would encourage Ofcom to engage with disabled users, consumers who do not use the internet and 'Pay as you Go' (PAYG) mobile customers, for reasons explained below. We also support Ofcom's work in other related areas: switching<sup>4</sup>; mobile coverage and performance information; broadband speeds and pricing;<sup>5</sup> and automatic compensation<sup>6</sup>. The ideal consumer or micro business journey would be one where relevant information is readily available and accessible; terms and conditions of contracts are fair, clear and logical; pricing is fair and proportionate; service is predictably good quality and reliable; and customer service processes (including complaints and redress) are accessible, straightforward, prompt and flexible. We stress again here that the needs of consumers in vulnerable circumstances are crucial.

### ***Information - availability and accessibility***

Our qualitative research *Inclusive Communications - We're not all the same*<sup>7</sup>, published in December 2015, focused on the experiences of older and disabled people when contacting the providers of the communications services they used. We found that communications services provided a gateway to information and other services that, if broken, left disabled and older people disproportionately disadvantaged and more reliant on family members and others. Conversely, well-run communications services empowered people and mitigated potential vulnerabilities.

As a consumer with multiple disabilities, who took part in our qualitative research, said:

*"I think when everything's running fine in terms of communications networks, I'm not as disabled as I might be."*

While some consumers said they had considered switching provider when service levels had been extremely poor, many could not face the effort involved in setting things up with a new provider. This can affect disabled people disproportionately as they may have gone to considerable effort to set up a service according to their specific needs.

As highlighted above, a barrier to engagement for some of our participants was quality of service, which was then compounded by poor customer service (through lack of training or inflexibility of processes). A consumer with multiple disabilities said:

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<sup>4</sup> <http://www.communicationsconsumerpanel.org.uk/downloads/ccp-acod-response-to-ofcom-mobile-switching---auto-switch-and-removal-of-notice-periods-30-june-2017-.pdf>

<sup>5</sup> <http://www.communicationsconsumerpanel.org.uk/downloads/ccp-acod-response---cap-and-bcap-consultation-on-speed-claims-in-broadband-advertising-final-july-2017.pdf>

<sup>6</sup> <http://www.communicationsconsumerpanel.org.uk/downloads/ccp-acod-response-to-ofcom-on-automatic-compensation-5-june-final.pdf>

<sup>7</sup> <http://www.communicationsconsumerpanel.org.uk/research-and-reports/we-re-not-all-the-same-inclusive-communications>



*"I think that someone was so shocked when I explained that I couldn't go and unplug wires, and things. That really summed it up, that it was just completely alien to them. And, you know, I'm quite sure that whoever it was that I spoke to was very well aware that disabled people exist, but there was not room in their world view for the possibility that they might be speaking to somebody who just couldn't physically do what they were suggesting. And clearly there's no room in the company's world view to provide a service accessible to me."*

This kind of experience does not encourage engagement with the market - quite the opposite.

Learning from good practice in other sectors can be valuable and we welcome the use of the UKRN framework, as set out in the Call for Inputs document.

In our research project, referred to above, we asked consumers for examples of better practice that the communication sector could learn from. Consumers mentioned what appeared to be a more proactive approach by energy providers. In the communications sector, communications providers have an obligation - in order to comply with GC15 - to take reasonable steps to ensure that the services they provide for disabled end-users are widely publicised, including in appropriate formats and through appropriate channels. However, the requirement placed upon energy providers is to inform all customers of the existence of the priority service register (PSR) and the process for becoming registered on the PSR. We consider that this is a positive step that helps ensure customers are more aware of the register and what it can offer. In our view, the promotion of GC15 services and equivalent access channels to all customers would have many benefits - raising awareness throughout the customer base and not just amongst people directly affected - and potentially helping to avoid the frustration and discomfort that some people experience as a result of having to state their needs, sometimes repeatedly, to organisations.

In response to Ofcom's recent review of its General Conditions, we supported the more holistic view of vulnerability and its proposal to require CPs to establish, publish and implement clear and effective processes and procedures in relation to consumers whose circumstances make them more vulnerable.

Following the above research ('We're not all the Same'), we met CPs and other stakeholders around the UK and fed into a guide<sup>8</sup> published by Ofcom to provide CPs with good practice in promoting services that are available to disabled consumers. In our response to the review of Ofcom's GCs we welcomed the guide being interpreted as formal guidance, as suggested in the consultation document, so that CPs and consumers know what to expect.

While the guide was designed to promote good practice in making services more accessible to disabled people, some of the practices highlighted in it could help other users to engage with their provider. For example, the guide promotes consideration of consumers who do not have access to the internet. As highlighted by Ofcom's review of the standalone landline market, a substantial proportion of voice-only customers do not have

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<sup>8</sup> [https://www.ofcom.org.uk/\\_\\_data/assets/pdf\\_file/0015/81132/guidance.pdf](https://www.ofcom.org.uk/__data/assets/pdf_file/0015/81132/guidance.pdf)

direct broadband access. We are keen to see that they are not left behind or prevented from saving money by enjoying access to the best possible deals.

### *Ofcom's proposals*

We welcome Ofcom's proposal to require CPs to highlight, in advance, the end of contracts in time for consumers to shop around. We also agree that CPs should, when notifying their customers that the end of their contracts are near, provide clear advice on what new deals are available and information on how to switch.

In relation to mobile contracts, Ofcom's 2016 Tech Tracker found that of those with a contract including a subsidised phone element, 6% were out of their minimum contract period. Of those out of contract (albeit a small base of 107), 72% were paying a similar monthly tariff compared to when they signed up. In other words, although they had effectively paid off the cost of their handset, they were continuing to pay monthly amounts for it. In terms of treating consumers fairly, we believe that CPs need to be much more proactive in contacting consumers when they have reached the end of their contract (including sufficient advance warning and advice on options). Although some CPs offer the separation of the handset and service element of the tariff, this is by no means common practice - as we believe it should be.

We agree that contracts within bundles should finish on the same date. Current arrangements that are non-co-terminous can mean that consumers are trapped into taking up a new contract with the same CP, or paying charges to that CP to exit the contract early. This does nothing to help consumers better engage with the market.

To encourage engagement, we believe consumers need to understand easily what they are paying for and what they are doing that causes them extra charges outside of their tariff. We would propose that Ofcom encourages CPs to provide consumers with a clear, meaningful, easy to understand statement of usage, on at least an annual basis and at the end of their contract. This should be based on direct research with consumers.

We support testing and trialling remedies with groups of consumers live in the market, but where something is obviously the right thing to do it should be implemented without delay. For example, notifying consumers proactively - and in enough time to act - that their contract is about to end and how to switch to another tariff is clearly the right thing to do. Providing meaningful information and examples of the way that consumers are using mobile data is clearly the right thing to do, but the way this is displayed to them could be tested on consumers themselves. We would urge Ofcom to include disabled consumers in testing.

### *Unintended consequences*

The call for inputs document asks respondents to highlight any potential negative outcomes from the proposals made.

We have highlighted above the risk that those who remain unengaged could be left behind in terms of fair deals - and therefore penalised for not engaging. We would also highlight the potential for:

- **Information overload:**  
A balance needs to be struck between a lack of relevant information and so much information that a consumer is unable to engage with it. We would also urge Ofcom to explore a range of methods of communicating with consumers. Direct letters have their place but would in our view need careful handling in terms of language, and avoiding the unintended consequence of causing confusion for some consumers. Other options might include local newspapers, TV advertising, billboards and social media.
- **Worry and concern to consumers in vulnerable circumstances:**  
Any consumer may be vulnerable at any time, in the short or long term, due to life events that their communications provider(s) may not know about. However, we would urge CPs to use the intelligence they have available (such as their Priority Services Register, 'flags' on their customer service databases and knowledge that a consumer has been a landline-only customer for several decades) to ensure that they tailor their approach when contacting consumers who may be less confident in making decisions regarding contracts. Vulnerable people should be assisted to move to a better tariff/service, but not in a way that makes them feel more vulnerable.
- **Potential impact on 'Pay as you go' (PAYG) mobile customers if a cross-subsidy is created:**  
Consumers who use PAYG services may do so for a number of reasons, but PAYG customers may include consumers with poor credit rating, those without a bank account and those who have a mobile phone 'for emergencies' only. These consumers may be on lower incomes, may have recently left the care system or the armed forces or may be of no fixed abode.

### *Addressing unintended consequences*

To address the problems highlighted above, Ofcom could consider:

- Focusing on redressing the information asymmetry that exists between CPs and consumers as a priority. CPs have access to large amounts of data on their customers and are able to use it for their own benefit, therefore it should be possible to use the same information to benefit consumers, giving them access to meaningful usage data, for example. Making bills clear and easy to understand, using plain language and giving 'real-life', relevant usage examples, with explanations that consumers can understand, will mean that consumers can see, for instance, how much mobile data is used when they perform certain activities, would be steps in the right direction.
- Where consumers may be more vulnerable, CPs should liaise with the Power of Attorney holder or the nominated person where relevant, make sure that they consider specific communications needs, provide information in accessible formats and listen to what their customers are telling them they need. Where relevant, communicating through trusted partners, such as care home providers and community groups may be beneficial.

- Ofcom's recent 'Smartphone by Default' research included interviews with people living in a hostel and while the focus of the research was on consumers using smartphones as their default mechanism for accessing the internet, one insight was that those with low digital confidence did not know basic ways that they could save money easily, such as logging onto free Wi-Fi within the hostel.

### Summary

- We support Ofcom's aims to improve consumer engagement, in order for consumers to get better and fairer deals, but we are keen that those who want to remain with their current providers and current tariffs are not penalised;
- We strongly support the inclusion of SMEs - particularly micro businesses, which are within our remit - within the scope of this project;
- We encourage Ofcom to engage with disabled users and their representatives;
- We welcome Ofcom's proposals to require CPs to highlight the end of contracts in advance and provide clear advice on what new deals are available, as well as how to switch;
- We would urge Ofcom to act promptly where possible, being alert to the risk that market developments may outpace potential solutions.